



390932

ILLINOIS POLLUTION CONTROL BOARD  
March 14, 1986

PFIZER PIGMENTS, INC., )

Petitioner, )

v. )

PCB 85-107

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )

Respondent. )

OPINION AND ORDER OF THE BOARD (by R. C. Flemal):

PROCEDURAL HISTORY

This matter comes before the Board upon the July 22, 1985 filing of a variance petition by Pfizer Pigments, Inc. ("PPI") requesting a thirty-two month variance from certain water quality parameters relating to its discharge of non-contact cooling waters from its East St. Louis plant to Schoenberger Creek. The Board on August 1, 1985 found PPI's petition deficient and ordered that more information be submitted. PPI filed an amended petition on October 30, 1985, accompanied by responses to additional information requested by the Illinois Environmental Protection Agency ("Agency") in a letter to PPI dated August 21, 1985. On December 30, 1985 the Agency filed a recommendation to grant variance relief to PPI subject to conditions, accompanied by a motion for leave to file its recommendation instantler. That motion was granted by Order of the Board on January 9, 1986.

Hearing in this matter was waived by the Petitioner. However, on August 29, 1985 an objection and request for hearing was filed by Mr. George T. Bush, Sr., Alderman and Public Works Committee Chairman of the City of East St. Louis. Hearing was held January 21, 1986 in the St. Clair County Building, Belleville, Illinois. The Agency asserted that Mr. Bush was notified of the hearing. However, Mr. Bush did not appear at the hearing. No other objections have been received, either as written comment or at hearing.

The specific relief that PPI requests consists of an increase in the limits on total iron (STORET 01045) and total suspended solids (STORET 00530) concentrations identified in 35 Ill. Adm. Code 304.204(c), and an increase in the load limits on total iron and total suspended solids (TSS) loads, as specified in PPI's currently applicable NPDES permit No. IL0038709. To wit, Section 304.204(c) and the NPDES permit currently limit discharges to:

- 1) The final 1500 feet of Schoenberger Creek starting immediately south of the Baltimore and Ohio main tracks and running north to an unnamed tributary of the Cahokia Canal; and
- 2) The unnamed tributary from its confluence with Schoenberger Creek as it runs west and northwest for a distance of 8000 feet to its confluence with the Cahokia Canal.

### BACKGROUND

Petitioner owns and operates a manufacturing facility in East St. Louis, Illinois. The plant employs over 300 people and is the major employer in East St. Louis. The PPI facility produces and processes both natural and synthetic iron oxides which are used in the paint and coating industry and in the audio, video, and computer tape industries.

PPI has two waste discharges from its facility. Process wastewater, which averages 2 million gallons per day (MGD), is discharged to the East St. Louis municipal sewer system. Once through cooling water is pumped from three on-site wells, used for cooling, and discharged sequentially to a storm sewer, Schoenberger Creek, an unnamed tributary to the Cahokia Canal, the Cahokia Canal, and the Mississippi River.

The three wells are designated as wells #12, #14, and #15. They have respective depths of 117, 115, and 117 feet and capacities of 500, 1000, and 1700 gallons per minute (GPM). PPI states that the only suitable configuration of well use is a combination of #12 and #15; wells #14 and #15 in combination produce more pressure than the piping system is capable of bearing, wells #12 and #14 do not provide adequate volume to satisfy peak demand, and none of the wells singly produce sufficient quantity to meet peak demand.

### WELL WATER QUALITY

Petitioner attributes the difficulty it has in meeting present standards to elevated concentrations of iron and TSS in the raw well water, particularly the concentrations encountered in well #15. PPI provides the following typical analyses:

<u>Well No.</u>	<u>Total Iron</u> <u>(mg/l)</u>	<u>TSS</u> <u>(mg/l)</u>
12	12-14	22
14	16-18	23
15	22-29	39

PPI believes that the high iron concentrations are due to natural conditions in the aquifer, and not to any contamination. It cites two recent reports published by the

# ENVIRONMENTAL IMPACT

Schoenberger Creek, as discussed by both Petitioner and the Agency, is severely degraded. The Board notes, however, that the presence of environmentally degraded conditions do not as a matter of course dictate continuation, nor worsening of such conditions. A September 28, 1985 study of Schoenberger Creek commissioned by PPI described the stream as channelized and having a heavy sediment load. It further noted that anaerobic sediment conditions exist upstream of Pfizer's discharge, and that the creek has been extremely degraded by channel manipulation, drainage diversion, and point source and non-point source pollution.

The following sampling data has been collected by PPI:

## Schoenberger Creek Sampling Results September 28, 1985 Survey

Site No.	Location	Fe Total (mg/l)	Fe Dissolved (mg/l)	TSS (mg/l)	Field Readings	
					Temperature (°C)	DO (ppm)
1	Schoenberger Creek Upstream	1.2	0.05	46	14	6.8
2	Schoenberger Creek at Culvert (Discharge Point)	14.9	0.21	36	13	7.3
3	Schoenberger Creek at Route 40	11.2	0.30	38	13.5	6.8
4	Cahokia Canal below confluence	6.34	0.23	30	13	6.9
5	IDOT discharge	11.9	0.23	34	13.5	7.0
6	Cahokia Canal above confluence	6.1	1.0	34	14	7.3
7	On plant discharge	17.0	3.9	42	13.5	7.0
8	Wellhead	18.2	9.4	42	13.5	-

In an attempt to find a permanent resolution to the problem, Petitioner has initiated and proposes to continue an eight step compliance program beginning with sampling and ending with an operational compliance system (Petition, Ex. A). During this period PPI proposes to identify the most effective compliance alternative among those noted above, as well as other alternatives which may exist, and to implement this alternative. The Agency notes that this program consists of a "schedule for decision rather than a commitment to resolve the problem" (Recom. p. 7). However, the Agency apparently believes that no obvious best solution is apparent at this time, and cites the Board's previous holding in Modine Manufacturing Company v. IEPA as controlling:

Compliance plans are to be developed prior to and included in the variance petition, not during its pendency. This is not to say that if no solution is apparent, the variance requested cannot include a time schedule and compliance plan designed to study and resolve the problem. PCB 79-112, August 18, 1982, p. 2.

PPI proposes that its compliance schedule take 32 months, the requested period of variance. Assuming that this period began with the filing month of July, 1985, the 32 months would extend into March, 1988. The Agency contends that this time frame is longer than necessary, that much of the information necessary to evaluate a compliance method was developed in R81-29, and that Petitioner has had knowledge of excessive amounts of pollutants since July, 1984. For these reasons, the Agency recommends that the variance be granted only until July 31, 1987, producing a period approximately eight months shorter than that requested by PPI. For the reasons cited by the Agency, the Board finds the variance period suggested by the Agency to be the more appropriate.

#### HARDSHIP

Both PPI and the Agency contend that Petitioner would suffer an arbitrary or unreasonable hardship if denied variance relief. Given the alternatives discussed above, the Board finds that arbitrary or unreasonable hardship would result if PPI is denied variance relief, and that such hardship would not be justified by the environmental impact of Petitioner's discharge. The Board will therefore grant variance relief from the effluent limitations of 304.124(c), subject to conditions.

This Opinion constitutes the Board's findings of fact of conclusions of law in this matter.

#### ORDER

Pfizer Pigments, Inc. is hereby granted variance from 35 Ill. Adm. Code 304.204(c) for its East St. Louis plant, subject to the following conditions:

Pfizer Pigments, Inc.

By: Authorized Agent

Title                     

Date                     

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 14<sup>th</sup> day of March, 1936, by a vote of 7-0.

Dorothy M. Gunn, Clerk  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board